



National Highway Traffic Safety Administration

[Docket No. NHTSA-2023-0018]

Beat the Street Interiors, Inc. -- Receipt of Petition for Temporary Exemption from Shoulder Belt Requirement for Side-Facing Seats on Motorcoaches

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of receipt of petition for temporary exemption; request for comment.

SUMMARY: Beat the Street Interiors, Inc. ("BTS") has petitioned NHTSA for a temporary exemption from a shoulder belt requirement of Federal Motor Vehicle Safety Standard (FMVSS) No. 208, "Occupant crash protection," for side-facing seats on motorcoaches. The petitioner seeks to install Type 1 seat belts (lap belt only) at side-facing seating positions instead of Type 2 seat belts (lap and shoulder belts) required by FMVSS No. 208. The petitioner states that, absent the requested exemption, it will otherwise be unable to sell a vehicle whose overall level of safety or impact protection is at least equal to that of a nonexempted vehicle. NHTSA is publishing this document to notify the public of the receipt of the petition and to request comment on it, in accordance with statutory and administrative provisions.

DATES: If you would like to comment, you should submit your comment not later than

[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Callie Roach, Office of the Chief Counsel, NCC-200, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, S.E., Washington, DC, 20590. Telephone: 202-366-2992; Fax: 202-366-3820.

ADDRESSES: You may submit your comment, identified by the docket number in the heading of this document, by any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- Fax: 1-202-493-2251.
- Mail: U.S. Department of Transportation, Docket Operations, M-30, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Avenue, SE, West Building Ground Floor, Room W12-140, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. To be sure someone is there to help you, please call (202) 366-9322 before coming.

Instructions: All submissions must include the agency name and docket number.

Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act discussion below. NHTSA will consider all comments received before the close of business on the comment closing date indicated above. To the extent possible, NHTSA will also consider comments filed after the closing date.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> at any time or to 1200 New Jersey Avenue, S.E., West Building Ground Floor, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m. Monday through Friday, except Federal Holidays. Telephone: 202-366-9826. To be sure someone is there to help you, please call (202) 366-9322 before coming.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to www.regulations.gov, as described in the system of records notice, DOT/ALL-14 FDMS, accessible through www.dot.gov/privacy. In order to facilitate comment tracking and response, the agency encourages commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please see below.

Confidential Business Information: If you wish to submit any information under a claim of confidentiality, you must submit your request directly to NHTSA's Office of the Chief Counsel. Requests for confidentiality are governed by part 512. NHTSA is currently treating electronic submission as an acceptable method for submitting confidential business information to the agency under part 512. If you would like to submit a request for confidential treatment, you may email your submission to Dan Rabinovitz in the Office of the Chief Counsel at Daniel.Rabinovitz@dot.gov or you may contact Dan for a secure file transfer link. At this time, you should not send a duplicate hardcopy of your electronic CBI submissions to DOT headquarters. If you claim that any of the information or documents provided to the agency constitute confidential business information within the meaning of 5 U.S.C. 552(b)(4), or are protected from disclosure pursuant to 18 U.S.C. 1905, you must submit supporting information together with the materials that are the subject of the confidentiality request, in accordance with part 512, to the Office of the Chief Counsel. Your request must include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR 512.8) and a certificate, pursuant to § 512.4(b) and part 512, appendix A. In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to the Docket at the address given above.

SUPPLEMENTARY INFORMATION:

I. Background

a. Statutory Authority for Temporary Exemptions

The National Traffic and Motor Vehicle Safety Act (Safety Act), codified as 49 U.S.C. chapter 301, provides the Secretary of Transportation authority to exempt, on a temporary basis, under specified circumstances, and on terms the Secretary considers appropriate, motor vehicles from a motor vehicle safety standard or bumper standard. This authority and circumstances are set forth in 49 U.S.C. 30113. The Secretary has delegated the authority for implementing this section to NHTSA.

NHTSA established 49 CFR part 555, *Temporary Exemption from Motor Vehicle Safety and Bumper Standards*, to implement the statutory provisions concerning temporary exemptions. Under part 555 subpart A, a vehicle manufacturer seeking an exemption must submit a petition for exemption containing specified information. Among other things, the petition must set forth (a) the reasons why granting the exemption would be in the public interest and consistent with the objectives of the Safety Act, and (b) required information showing that the manufacturer satisfies one of four bases for an exemption.¹ The petitioner is applying on the basis that compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles (*see* 49 CFR 555.6(d)). A manufacturer is eligible for an exemption under this basis only if NHTSA determines the exemption is for not more than 2,500 vehicles to be sold in the U.S. in any 12-month period. An exemption on this basis may be granted for not more than two years, but may be renewed upon reapplication.²

b. FMVSS No. 208

On November 25, 2013, NHTSA published a final rule amending FMVSS No. 208 to require seat belts for each passenger seating position in all new over-the-road buses (OTRBs) (regardless of gross vehicle weight rating (GVWR)), and all other buses with GVWRs greater than 11,793 kilograms (kg) (26,000 pounds (lb)) (with certain exclusions).³

In the notice of proposed rulemaking (NPRM) preceding the final rule (75 FR 50958, August 18, 2010), NHTSA proposed to permit manufacturers the option of installing either a Type 1 (lap belt) or a Type 2 (lap and shoulder belt) on side-facing seats.⁴ The proposed option was consistent with a provision in FMVSS No. 208 that allows lap belts for side-facing seats on buses with a GVWR of 4,536 kg (10,000 lbs.) or less. NHTSA proposed the option because the

¹ 49 CFR 555.5(b)(5) and 555.5(b)(7).

² 555.8(b) and 555.8(e).

³ 78 FR 70415 (November 25, 2013); response to petitions for reconsideration, 81 FR 19902 (April 6, 2016). The final rule became effective November 28, 2016 for buses manufactured in a single stage, and a year later for buses manufactured in more than one stage.

⁴ 75 FR at 50971.

agency was unaware of any demonstrable increase in associated risks using lap belts when compared to using lap and shoulder belts on side-facing seats. In the NPRM, NHTSA noted that⁵ “a study commissioned by the European Commission regarding side-facing seats on minibuses and motorcoaches found that due to different seat belt designs, crash modes and a lack of real-world data, it cannot be determined whether a lap belt or a lap/shoulder belt would be the most effective.”⁶

However, after the NPRM was published, the Motorcoach Enhanced Safety Act of 2012 was enacted as part of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141 (July 6, 2012). Section 32703(a) of MAP-21 directed the Secretary of Transportation (authority delegated to NHTSA) to “prescribe regulations requiring safety belts to be installed in motorcoaches at each designated seating position.”⁷ As MAP-21 defined “safety belt” to mean an integrated lap and shoulder belt, the final rule amended FMVSS No. 208 to require lap and shoulder belts at all designated seating positions, including side-facing seats, on OTRBs.⁸

Even as it did so, however, the agency reiterated its view that “the addition of a shoulder belt at [side-facing seats on light vehicles] is of limited value, given the paucity of data related to side facing seats.”⁹ NHTSA also reiterated that there have been concerns expressed in literature in this area about shoulder belts on side-facing seats, noting in the final rule that, although the agency has no direct evidence that shoulder belts may cause serious neck injuries when applied to side-facing seats, there are simulation data indicative of potential carotid artery injury when

⁵ 75 FR at 50971-50972.

⁶ http://ec.europa.eu/enterprise/automotive/projects/safety_consider_long_stg.pdf.

⁷ MAP-21 states at § 32702(6) that “the term ‘motorcoach’ has the meaning given the term ‘over-the-road bus’ in section 3038(a)(3) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note), but does not include a bus used in public transportation provided by, or on behalf of, a public transportation agency; or a school bus, including a multifunction school activity bus.” Section 3038(a)(3) (49 U.S.C. 5310 note) states: “The term ‘over-the-road bus’ means a bus characterized by an elevated passenger deck located over a baggage compartment.”

⁸ For side-facing seats on buses other than OTRBs, in the final rule NHTSA permitted either lap or lap/shoulder belts at the manufacturer’s option.

⁹ 78 FR at 70448, quoting from the agency’s Anton’s Law final rule which required lap/shoulder belts in forward-facing rear seating positions of light vehicles, 59 FR 70907.

the neck is loaded by the shoulder belt.¹⁰ The agency also noted that Australian Design Rule ADR 5/04, “Anchorage for Seatbelts” specifically prohibits shoulder belts for side-facing seats.

Given that background, and believing there would be few side-facing seats on OTRBs, NHTSA stated in the November 2013 final rule that manufacturers may petition NHTSA for a temporary exemption under 49 CFR part 555 to install lap belts instead of lap and shoulder belts at side-facing seats.¹¹ NHTSA further explained that a manufacturer could seek such an exemption on the basis that the applicant is otherwise unable to sell a vehicle whose overall level of safety is at least equal to that of a non-exempted vehicle, stating that the agency would be receptive to an argument that, for side-facing seats, lap belts provide an equivalent level of safety to lap and shoulder belts.¹²

II. Receipt of petition

In accordance with 49 U.S.C. 30113 and the procedures in 49 CFR part 555, BTS, a final-stage manufacturer of entertainer motorcoaches, submitted a petition on September 13, 2022, asking NHTSA for a temporary exemption from the shoulder belt requirement of FMVSS No. 208 for side-facing seats on its vehicles. The petitioner seeks to install Type 1 seat belts (lap belt only) at side-facing seating positions, instead of Type 2 seat belts (lap and shoulder belts) as required by FMVSS No. 208. The basis for the petition is that compliance would prevent the petitioner from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles (49 CFR 555.6(d)).¹³

¹⁰ Fildes, B., Digges, K., “Occupant Protection in Far Side Crashes,” Monash University Accident Research Center, Report No. 294, April 2010, pg. 57.

¹¹ 78 FR at 70448.

¹² *Id.*

¹³ The petition is similar to petitions for temporary exemption NHTSA received from 14 other final stage manufacturers on the same shoulder belt requirement of FMVSS No. 208 for side-facing seats on entertainer buses. The first petition was submitted by Hemphill Brothers Leasing Company, LLC (Hemphill). (Notice of receipt of petition, 84 FR 11735 (March 28, 2019); notice of grant of petition, 84 FR 69966 (November 14, 2019)). In its original petition, Hemphill stated that 39 “other petitioners” were covered by it. Later, NHTSA granted 13 additional petitions submitted by All Access Coach Leasing LLC, Amadas Coach, Creative Mobile Interiors, D&S Classic Coach Inc., Farber Specialty Vehicles, Florida Coach, Inc., Geomarc, Inc., Integrity Interiors LLC, Nitetrain Coach Company, Inc., Pioneer Coach Interiors LLC, Roberts Brothers Coach Company, Russell Coachworks LLC, and Ultra Coach Inc. (Notice of receipt of the petitions, 85 FR 51550 (August 20, 2022); notice of grant of petitions, 87 FR 33299 (June 1, 2022)).

A copy of the petition has been placed in the docket listed in the heading of this notice. To view the petition, go to <http://www.regulations.gov> and enter the docket number in the heading.

c. Brief Overview of the Petition

BTS states that it is a final-stage manufacturer of over-the-road buses and customizes motorcoaches to meet the needs of its entertainer clients and other specialized customers. BTS states that it typically receives a bus shell¹⁴ from a manufacturer of incomplete vehicles and then builds out the complete interior of the vehicle. The petitioner states that the motorcoaches it completes are primarily used for touring artists and their crews. BTS states that it is a small business and expects to manufacture no more than 14 vehicles during the exemption period.

Pursuant to 49 CFR 555.6(d), an application must provide “[a] detailed analysis of how the vehicle provides the overall level of safety or impact protection at least equal to that of nonexempt vehicles.”

BTS reiterates the agency’s discussion from the November 2013 seat belt final rule, summarized above. BTS also references the 14 petitions that NHTSA has granted to other similar manufacturers.¹⁵ BTS states that NHTSA has not conducted testing on the impact or injuries to passengers in side-facing seats in motorcoaches, so “there is no available credible data that supports requiring a Type 2 belt at the side-facing seating positions.”¹⁶ BTS states that it believes that if not exempted from the requirement, BTS will be required to offer its customers “a motorcoach with a safety feature that could make the occupants less safe, or certainly at least no more safe, than if the feature was not installed.”¹⁷

¹⁴ The petition describes the bus shell as generally containing the following components: exterior frame; driver’s seat; dash cluster, speedometer, emissions light and emissions diagnosis connector; exterior lighting, headlights, marker lights, turn signals lights, and brake lights; exterior glass, windshield and side lights with emergency exits; windshield wiper system; braking system; tires, tire pressure monitoring system and suspension; and engine and transmission.

¹⁵ BTS petition at page 2.

¹⁶ *Id.* at page 5.

¹⁷ *Id.* at page 6.

Pursuant to 49 CFR 555.5(b)(7), petitioners must state why granting an exemption allowing it to install Type 1 instead of Type 2 seat belts in side-facing seats would be in the public interest and consistent with the objectives of the Safety Act.

The petitioner states that granting an exemption would enable it to sell vehicles with Type 1 lap belts on its side-facing seats.¹⁸ BTS further states that granting this petition will provide relief to a small business.¹⁹ Additionally, because this petition follows NHTSA granting 14 similar petitions, BTS states that granting this exemption will assist in providing a consistent, objective standard that is easy for manufacturers to understand and meet.²⁰

BTS also states that it believes that an option for Type 1 belts at side-facing seats is consistent with the objectives of the Safety Act because, as stated in its petition —

an option for Type 1 or Type 2 belts at side-facing seating allows the manufacturer to determine the best approach to motor vehicle safety depending on the intended use of the vehicle and its overall design. This option is consistent with current analysis of the NHTSA along with the European Commission that indicates no demonstrable difference in risk between the two types of belts when installed in sideways-facing seats.²¹

In support of its petition, BTS also states that it produces only a small number of motorcoaches annually, expecting to manufacture only about 14 motorcoaches under the period of exemption, well below the limit of 2,500 vehicles. .²²

The petitioner also indicates that it expects to seek to renew this exemption, if granted, at the end of the exemption period.²³

III. Comment Period

The agency seeks comment from the public on the merits of the petition requesting a temporary exemption, for side-facing seats, from FMVSS No. 208's shoulder belt requirement. NHTSA would like to make clear that the petitioner seeks to install lap belts at the side-facing

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.* at page 7.

seats only; it does not seek to be completely exempted from the FMVSS No. 208 seat belt requirement. The petitioner's request does not pertain to forward-facing designated seating positions on its vehicles. Under FMVSS No. 208, forward-facing seating positions on motorcoaches must have Type 2 lap and shoulder belts, and the petitioner is not raising issues about that requirement for forward-facing seats. After considering public comments and other available information, NHTSA will publish a notice of final action on the petition in the **Federal Register**.

Authority: 49 U.S.C. 30113; delegation of authority at 49 CFR 1.95 and 501.8.

Raymond Ryan Posten,
Associate Administrator for Rulemaking.

Billing Code: 4910-59-P

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